

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Modernizing the FCC Form 477)	WC Docket No. 11-10
Data Program)	
)	
Development of Nationwide)	WC Docket No. 07-38
Broadband Data to Evaluate)	
Reasonable and Timely Deployment)	
of Advanced Services to All)	
Americans, Improvement of)	
Wireless Broadband Subscribership)	
Data, and Development of Data on)	
Interconnected Voice over Internet)	
Protocol (VoIP) Subscribership)	
)	
Service Quality, Customer)	WC Docket No. 08-190
Satisfaction, Infrastructure and)	
Operating Data Gathering)	
)	
Review of Wireline Competition)	WC Docket No. 10-132
Bureau Data Practices)	
)	

**Comments of
Communications Workers of America**

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I. Introduction and Summary

The Communications Workers of America (“CWA”) submits these comments in response to the Commission’s Public Notice seeking comment on modernizing its Form 477 Data Program. CWA represents 700,000 workers in communications, media, airlines, manufacturing, and public service who have an interest in this proceeding as workers and as consumers.

CWA commends the Commission for launching this comprehensive review of its data collection practices in order to modernize and streamline how it collects, uses and disseminates data to “ensure that all of the data... is useful for supporting informed policymaking, promoting competition, and protecting consumers.”¹ Accurate data collection is necessary for the Commission to continue fact-based, data-driven decision making to protect the public interest in universal, quality communications services. As the Commission noted in its Notice of Proposed Rulemaking (NPRM), a decade of rapid innovation in the broadband and telephone services markets, coupled with the Government Accountability Office’s (GAO) recent finding that “the Commission’s broadband data collection fails to collect key data required to inform policy decisions and generally needs improvement,”² indicate a need to update the Commission’s data collection program. The Commission should therefore expand and update its current data collection practices in order to have the information it needs to promote universal, high quality voice and broadband services.

¹In the Matter of Modernizing the FCC Form 477 Data Program, Development of Nationwide Broadband Data to Evaluate reasonable and Timely Deployment of Advanced Services to All Americans, Improvement of Wireless Broadband subscribership Data, and Development of Data on interconnected Voice over Internet Protocol (VoIP) Subscribership, Service Quality, Customer Satisfaction, Infrastructure and Operating Data Gathering and Review of Wireline Competition Bureau Data Practices, *Notice of Proposed Rulemaking*, WC Dockets Nos. 11-10, 07-38, 08-190, 10-132; Feb. 8, 2010, para. 1 (“Data Improvement NPRM”).

² *Ibid.* para. 2.

These comments will focus on three issues central to the Form 477 program. First, the Commission should maintain and strengthen its current voice and broadband reporting rules. Specifically, CWA proposes that the Commission collect not only detailed and granular broadband *subscriber* information but also begin collecting broadband *infrastructure* information beginning in 2015 or at such time as the National Telecommunications and Information Administration's (NTIA) broadband mapping program ends. Second, CWA urges the Commission to move forward expeditiously to report *actual* not just advertised Internet connection speeds. Third, CWA recommends that the Commission collect service quality data from all voice and broadband providers, pursuant to its tentative conclusion in the 2008 *Service Quality Data NPRM* that the Commission should collect this information from all "facilities-based providers of broadband and/or telecommunications."³

The Commission states that Form 477 provides "a set of data of uniform quality and reliability superior to other publicly available information sources."⁴ This NPRM represents an opportunity for the Commission to expand its set of accurate, valid and verified data. Telecommunications and broadband are essential services. Without access to reputable data, sufficiently granular and collected over time, the FCC is hamstrung in its efforts to protect consumers, promote competition and fulfill its statutory obligations, specifically in regard to universal service, public safety and others.⁵ There is no suitable alternative, public or private, for the data collected on Form 477 and previously on the Automated Reporting Management Information System (ARMIS) Reports. Simply put,

³ FCC Grants Forbearance from Legacy Reporting and Accounting Requirements, Seeks Comment on Industry-Wide Reporting. WC Docket No. 08-190, 07-139, 07-204, 07-273, 07-21. (FCC-08-203)

⁴ FCC 2000 *Data Gathering Order*, 15 FCC Rcd at 7726, para. 14

⁵ *Data Improvement NPRM*, para. 20

the value of the data that the Commission collects for these purposes far outweighs the cost of collecting the data. It is for these reasons that CWA recommends that the Commission expand its current data collection under the Form 477 program.

II. The Commission Should Strengthen and Expand Form 477 Data Reporting Requirements

Why we need better broadband data. As the United States transitions from legacy circuit-switched networks to all IP broadband networks, the Commission needs comprehensive data on broadband deployment and adoption to ensure that consumers do not lose access to “adequate facilities at reasonable charges.”⁶ The Commission is tasked with promoting broadband competition, and as officials from the Department of Justice and the Federal Trade Commission noted in comments on the National Broadband Plan (NBP): “Additional data are needed to more rigorously evaluate broadband competition.”⁷ The NBP recommended that the Commission “revise Form 477 to collect data relevant to broadband availability, adoption and competition.”⁸

The Commission should not rely on the individual states to collect this data. This would result in a patchwork of information with different sets of standards and gaps between types of data from one state to the next. Further, the real value derived from the Commission setting standards and reporting requirements is in the ability to assess that

⁶ 47 U.S.C. § 151. See also: *Data Improvement NPRM*, para. 23.

⁷ NATIONAL BROADBAND PLAN at 37, citing *DOI Ex Parte* in re National Broadband Plan NOI, filed Jan. 4, 2010 at 7; Gregory L. Rosston, Deputy Director, Stanford Institute for Economic Policy Research, *Remarks at FCC Benchmarks Workshop* 5-17 (Sept. 2, 2009), available at http://www.broadband.gov/docs/ws_20_benchmarks.pdf; James Prieger, Professor of Pub. Policy, Pepperdine Univ., *Remarks at FCC Economic Growth, Job Creation and Private Investment Workshop* 4-15 (Aug. 26, 2009), available at http://broadband.gov/docs/ws_16_economy.pdf; Ryan McDevitt, Lecturer, Dep't of Manag. & Strat., Northwestern Univ., *Remarks at FCC Economic Growth, Job Creation and Private Investment Workshop* 23-34 (Aug. 26, 2009), available at http://broadband.gov/docs/ws_16_economy.pdf; Joseph Farrell, Director, Bureau of Econ., FTC, *Remarks at FCC Economic Issues in Broadband Competition Workshop* 55-66 (Oct. 9, 2009), available at http://broadband.gov/docs/ws_28_economic.pdf; Carl Shapiro, Deputy Ass't Attorney General for Economics, Antitrust Div., DOJ, *Remarks at FCC Economic Issues in Broadband Competition Workshop* 66-83 (Oct. 9, 2009), available at http://broadband.gov/docs/ws_28_economic.pdf.

⁸ NATIONAL BROADBAND PLAN at 43.

data over time. This allows the Commission to observe trends and is particularly useful with service quality data.

Who Must Report. Collection requirements should include all providers of broadband, local telephone, interconnected Voice over Internet Protocol (VoIP) and mobile telephone services, irrespective of size. Some commenters may ask for exemption from data collection requirements. CWA argues that the value of the data comes from its comprehensive nature. It gives the Commission a complete picture of the state of these markets, and is of particular use as the Commission works to fulfill its mandate to expand broadband access to rural communities. Further, if the requirements are extended to the entire industry, no individual segment pays a disproportionate share of the cost of collecting data.

Frequency of Reporting. The Commission should continue to collect broadband and voice data semi-annually. In these fast-moving markets, a semi-annual report strikes an appropriate balance that ensures the Commission and the public have access to up-to-date information, and at the same time appropriately recognizes the burdens placed on providers in collecting data.

Broadband Network Deployment. The Broadband Data Improvement Act (BDIA) and the American Recovery and Reinvestment Act (ARRA) established a State Broadband Data and Development Grant Program (SBDD). Through this program, NTIA has awarded grants, funded through 2015, to certain state-designated entities to fund the collection of data from broadband providers. The data collected by NTIA as part of this program was first made public in February of this year and will be updated semi-annually, presumably until the grant funding runs out in 2015. The NTIA has announced

that it will work with state grantees to improve the quality of the data collected.

After 2015, however, it is not clear what agency, if any, will collect granular broadband infrastructure data. Therefore, CWA recommends that the Commission in this instant proceeding adopt rules to collect broadband infrastructure data that is at least as granular as the data collected as part of the NTIA's broadband mapping program, and that this requirement would take effect in 2015, or at such time as the NTIA ceases to collect such data, whichever is sooner.

Tracking the availability of broadband networks is necessary for the Commission to target Universal Service Funds to unserved areas in order to meet its statutory obligations to ensure that "quality services" be "available at just, reasonable and affordable rates,"⁹ and to implement the goals of the National Broadband Plan as it transitions the Universal Service Fund to the nascent Connect America Fund. Such data will also help policymakers and other interested parties analyze the reasons for gaps in broadband adoption.

Speed Reporting. In addition to advertised speeds collected on Form 477, the Commission should collect and report actual broadband speeds throughout the United States. The Commission already has a program in place, partnering with SamKnows, to sample and collect actual broadband speeds from a scientifically sampled population of Americans. The Commission should move forward expeditiously with that program and report the results on an ongoing basis in a web-based and easily searchable interface. The Commission also has a voluntary Web-based broadband speed test on its own Web site, and the Commission should regularly issue a report and analysis based on data collected from that source. The combination of these data sources reporting actual broadband

⁹ 47 U.S.C. § 151.

speeds will give the Commission valuable tools as it reviews truth-in-reporting issues, and holds providers accountable for significant disparities between advertised “up-to” speeds and actual speeds experienced by users.

The Commission also seeks comment on whether the FCC and NTIA should conform the different speed tiers collected by each agency. CWA supports the harmonization of these speed tiers which will allow consumers and interested stakeholders to cross-reference data between one agency and the other. In selecting the break points for the various speed tiers, the Commission should include speeds related to the various benchmarks required by USF or CAF funding, or other speeds significant to the Commission’s operations.

Finally, the Commission correctly notes that broadband availability is a broader concept than just broadband deployment.¹⁰ For the Commission to fulfill its obligations under section 706 of the Telecommunications Act, CWA agrees with other commenters who recommend collecting data on price¹¹ and service quality.¹²

Geographic Area. Some carriers have requested that the FCC allow them to submit subscribership data at the address level because this would reduce the collection burden for those providers. The FCC should allow the submission of all relevant Form 477 data to be as granular as possible, while setting uniform standards and minimum granularity requirements. The data could be aggregated within the Commission, to ensure that privacy standards are met, and publicly report at the census block level. CWA recommends, in addition to any more granular reporting, the Commission continue

¹⁰ *Data Improvement NPRM*, para. 34.

¹¹ *See, e.g.*, Consumer Federation of America *et al.* Sep. 2, 2008 Comments, WC Docket No. 07-38 at 4.

¹² *See, e.g.*, Hugh Carter Donahue & Josephine Ferringo-Stack, *Broadband Quality of Service Monitoring: A Promising Public Policy Response*, NTIA Docket No. 011109273-1273-01, available at <http://www.ntia.doc.gov/ntiahome/broadband/comments2/donahuestack.htm>.

to aggregate data at the state and operating company level. CWA has found this particularly useful in reviewing data for state regulatory proceedings. Additionally, services should also be aggregated logically according to their end-use, as well as by the technology employed. That way, direct comparisons can be made, for example, between different voice or data services, or between competing VoIP or mobile voice carriers.

Anchor Institution Reporting. The Commission asks for comment on how the Commission should treat anchor institutions in its data collection.¹³ Anchor institutions should have a distinct data category to track progress toward the National Broadband Plan goal to connect anchor institutions in “every American community... to at least one gigabit per second broadband service.”¹⁴ By definition, anchor institutions are often the first entities in a community to install a broadband Internet connection. The Commission can therefore monitor the expansion of broadband into communities that previously did not have access, and will be able to compare quality and availability statistics between communities based on any number of metrics. As the Commission notes, anchor institutions such as schools, hospitals and libraries often have much higher quality of service needs than many commercial businesses.¹⁵ For that reason, the Commission should also require all broadband providers to report service quality data specifically for anchor institutions.

¹³ *Ibid.*, para. 65

¹⁴ *Connecting America: The National Broadband Plan*. Goal No. 4, pg. XIV.

¹⁵ *Ibid.*

III. The Commission Should Require All Voice and Data Providers to Report Service Quality Metrics

Service Quality Data is Essential to Assess Compliance with Statutory

Mandates to Provide Affordable, Quality Service to all Americans. Service quality data is necessary to increase accountability in the universal service programs by ensuring that recipients of government support provide services to their customers that are reliable and of comparable quality to those not provided with government support; ensure public safety by making sure that networks remain a reliable means of contacting public safety organizations; monitor telephone and broadband competition by ensuring that service providers with overlapping footprints provide comparable levels of service; promote broadband deployment and availability; protect consumers by ensuring that end users have information about network performance; and track the effects of the conversion from public switched networks (PSTN) to IP services by providing insight into the performance levels of both networks.¹⁶

Who Should Report. CWA agrees with the Commission's tentative conclusion in the 2008 *Service Quality Data NPRM* that service quality reports are more valuable if collected from all industry participants. The Commission noted that: "collection of [service quality data] would be useful to the Commission's public safety and broadband policymaking.... We find, moreover, that these data would be useful only if they are collected from the entire relevant industry."¹⁷ Service quality reporting requirements

¹⁶ *Data Improvement NPRM*, para. 89.

¹⁷ In the Matter of Petition of Service Quality, Customer Satisfaction, Infrastructure and Operating Data Gathering, Petition of AT&T Inc. for Forbearance Under 47 U.S.C. § 160 (c) From Enforcement of Certain of the Commission's ARMIS Reporting Requirements, Petition of Qwest Corporation for Forbearance Under 47 U.S.C. § 160 (c) From Enforcement of Certain of the Commission's ARMIS Reporting Requirements, Petition of Embarq Local Operating Companies for Forbearance Under 47 U.S.C. § 160 (c) From Enforcement of Certain of the Commission's ARMIS Reporting Requirements, Petition of for Forbearance Frontier and Citizens ILECs Under 47 U.S.C. § 160 (c) From Enforcement of Certain of

should be imposed on all telecommunications and broadband providers, irrespective of the technology used to deliver the service. This includes traditional wireline voice providers, wireless carriers, Voice over Internet Protocol (VoIP) providers, and all broadband providers.

What Data Should Be Collected. The Commission seeks comment on which aspects of service quality and customer satisfaction should be collected as part of a revamped Form 477. CWA recommends the Commission collect the following data:

1. Data regarding the number of out-of-service and trouble reports and the number of complaints about network performance or degradation (initial and repeat)
2. Installation and repair intervals
3. The number of complaints about service provider customer care and billing
4. Answer times to reach a live representative responding to customer inquiries¹⁸
5. General customer satisfaction surveys

CWA also recommends that service quality data should be aggregated by provider, by state, and by provider by state. In the case of cable providers, data should be collected by cable information system.

The Commission also seeks comment on whether the recently adopted *Open Internet Order* requirements for broadband providers to disclose network management practices and performance characteristics would be adequate to satisfy the Commission's

the Commission's ARMIS Reporting Requirements, Petition of Verizon for Forbearance Under 47 U.S.C. § 160 (c) From Enforcement of Certain of the Commission's ARMIS Reporting Requirements, *Memorandum Opinion and Order and Notice of Proposed Rulemaking*, WC Dockets Nos. 08-190, 07-139, 07-204, 07-273; Sept. 6, 2008 (rel), para 34 ("Service Quality Data Order").

¹⁸ While ARMIS reports did not previously include this data, CWA recommends the Commission now include this metric as a part of customer satisfaction data. The Commission noted in this NPRM that CWA has previously recommended collecting this data; see *Data Improvement NPRM*, para. 95.

need for service quality data. CWA believes that this data is useful as a supplement to the service quality metrics described above, but is not an adequate substitute.

Collecting the Service Quality Data Previously on ARMIS Reports. From 1990 through 2010, the Commission collected service quality data on large incumbent local exchange carriers (ILECs) as part of its ARMIS Reports. In 2008, the Commission granted forbearance from certain service quality reporting requirements to large incumbent local exchange carriers (ILECs).¹⁹ As a condition of the forbearance, the ILECs agreed to continue reporting service quality data for the next two years, through 2010. At the time of the *Service Quality Forbearance Order*, the Commission concurrently issued the *Service Quality NPRM* in which it tentatively concluded that it should adopt a more comprehensive service quality data collection program that would apply to carriers “industry-wide,” noting that this would be of greater value than collecting the data from only a few carriers.²⁰

Unfortunately, it is now three years since the Commission issued its *Service Quality NPRM*, and it still has not acted to adopt service quality metrics that would apply to all telecommunications and broadband providers. It is long past time to take such action. In this instant proceeding, the Commission should resume collecting service quality and customer satisfaction data by incorporating the requirements for collection of that data into an expanded Form 477 and requiring all voice and broadband providers to report on service quality metrics.

¹⁹ “FCC Grants Forbearance from Legacy Reporting and Accounting Requirements, Seeks Comment on Industry-Wide Reporting”. WC Docket No. 80-190, 07-139, 07-204, 07-273, 07-21. (FCC-08-203) and “FCC Grants Forbearance from Legacy Reporting Requirements”. WC Docket Nos. 07-204, 07-273 (FCC 08-271)

²⁰ FCC Grants Forbearance from Legacy Reporting and Accounting Requirements, Seeks Comment on Industry-Wide Reporting. WC Docket No. 80-190, 07-139, 07-204, 07-273, 07-21. (FCC-08-203)

The data previously collected in ARMIS Forms 43-05 and 43-06 continues to provide information that the Commission needs to meet its statutory obligations to ensure that all consumers have access to quality telecommunications and broadband services. Consumers and policymakers need information regarding installation and repair intervals, out-of-service and trouble reports, complaints about network performance or degradation, the time it takes to reach a live service representative, and customer satisfaction and complaints. Requiring all carriers to file information consistent with the discontinued ARMIS service quality reports would ensure that the data would be consistent and backwards-compatible. Moreover, many carriers continue to collect this data for internal purposes or for reporting to state Commissions.

In its 2008 *Service Quality Data NPRM*, the Commission tentatively concluded that ARMIS Reports 43-05 (service quality) and 43-06 (customer satisfaction) serve the important function of helping “consumers make informed choices in a competitive market.” The Commission also noted that consumers would be able to make even better and more informed choices if *all* relevant providers were required to provide similar information to the Commission which would be available to the public.²¹ The Commission noted that the “current partial and uneven data collection hinder their usefulness as a federal consumer protection tool” since cable companies, wireless providers, other competitive telecommunications carriers, and even other incumbent ILECs were not subject to the reporting obligations.

In comments CWA filed in that proceeding, we emphasized the importance of service quality data collection to safeguard the public, noting that markets function best when consumers have access to comprehensive information. We pointed out that CWA,

²¹ “Service Quality Data Order” Sept. 6, 2008 (rel), para 12 (“Service Quality Data Order”).

as well as other consumer groups, state Commissions, and state consumer advocates, relied upon ARMIS service quality data to analyze industry performance and network quality, and that there was simply no substitute for a national database that collects uniform data across states, companies, and over time. CWA has used ARMIS data in numerous state and FCC proceedings. Some commenters may argue that service quality data is collected in individual states, making the need for the Commission to collect data redundant, but not all states collect this data and many states do not publicly report service quality data.

This three-pronged approach -- forbearance of ARMIS Reports 43-05 and 43-06 public reporting requirements, development of a new more comprehensive service quality reporting program, and a requirement to continue public reporting during the transition period -- were linked together in the *Service Quality Order* and the *Service Quality Data NPRM* that the Commission released at the same time.

CWA has an abiding interest in service quality reporting. CWA filed comments in the Commission's 2001, 2008 and 2010 proceedings related to ARMIS service quality reporting obligations. CWA requests that the Commission incorporate the comments submitted in those proceedings into the record in this proceeding.²²

CWA will focus on the issue of retail service quality data reporting because we believe the forbearance has resulted in serious harm to consumers, as well as to the ability of the Commission, the states, consumers and interested stakeholder organizations to monitor industry developments in order to craft good policy.

²² *Ibid*, CWA Comments, *In the Matter of 2000 Biennial Regulatory Review – Telecommunications Service Quality Reporting Requirements*, Notice of Proposed Rulemaking, CC Docket No. 00-229, Jan. 12, 2001, and Communications Workers of America Comments and Reply Comments, *In the Matter of review of Wireline Competition Bureau Data Practices*, WC Docket No. 10-132, August 13 and September 13, 2010.

Report No. 43-05 was filed by all price cap ILECs (both mandatory and elective) at the study area and holding company levels. ARMIS Report No. 43-05 contained information regarding installation and repair intervals for business and residential local service customers (Table II), as well as service quality complaints (Table V). Report No. 43-06 was filed by all mandatory price cap LECs at the study area and holding company levels and provided the results of customer satisfaction surveys on residential, small business, and large business customers.

Unfortunately in the *Service Quality Order*, the Commission erroneously granted petitioners' request to forbear from ARMIS Reports 43-05 and 43-06 filing requirements. This was conditioned on the reporting carriers' agreement to continue collecting service quality and customer satisfaction data, and to filing that data publicly through ARMIS Report 43-05 and 43-06 for 24 months from the effective date of the *Service Quality Data Order*.²³ (The effective date of the *Service Quality Data Order* was Sept. 6, 2008. Therefore the sunset date was on or about Sept. 6, 2010.) The Commission reasoned that this condition would ensure continuity in data collection, and afford the Commission a "reasonable period of time" to adopt industry-wide reporting requirements. The Commission explicitly stated that continued public filing of ARMIS Reports 43-05 and 43-06 was a "condition of our forbearance here" and reasoned that 24 months would provide sufficient time for it to adopt a more comprehensive service quality reporting program that would apply to all telecommunications and broadband companies. In order to move forward expeditiously to update service quality reporting to cover all industry participants, the Commission issued a *Notice of Proposed Rulemaking* at the same time that it issued the *Service Quality Data Order*. In the *Service Quality Data NPRM*, the

²³ *Service Quality Data Order*, para. 12.

Commission tentatively concluded that collecting service quality and customer satisfaction data contained in ARMIS Reports 43-05 and 43-06 would be “useful to consumers to help them make informed choices in a competitive market, but only if available from the entire relevant industry.”²⁴ The Commission sought public comment on this tentative conclusion.

At the time, Commissioners Michael J. Copps and Jonathan S. Adelstein raised serious objections to the Commission’s flawed forbearance decision. Commissioner Copps emphasized that “the collection and analysis of solid communications-related data is a linchpin in the Commission’s ability to make sound decisions and provide useful guidance and assistance to consumers, states, industry-participants and other stakeholders.” While Commissioner Copps wrote that his “strong preference would be to deny these petitions outright,” he agreed to the compromise that conditioned forbearance on continuation of service quality data collection and reporting for two years, because this would provide time to develop an approach to “ensuring that the data necessary for consumers and for state and federal regulators will be available going-forward.” Commissioner Copps was all too prescient when he expressed his concern that this compromise did create “risk that the aforementioned data will not be available after two years.” Commissioner Copps limited his support for the *Service Quality Data Order* to concurrence because “the analysis and reasoning relied on to reach the forbearance decision is flawed.” The Commission, he wrote, “has a deep and ongoing obligation to

²⁴ *Id.* Para. 35 (“We also recognize..that service quality and customer satisfaction data contained in ARMIS Reports 43-05 and 43-06 might be useful to consumers and help them make informed choices in a competitive market, but only if available from the entire relevant industry. We thus tentatively conclude that we should collect this type of information...”)

gather this type of data so informed decisions can be made when it comes to consumer protection, competition, broadband, and public safety.”²⁵

In a similar vein, Commissioner Jonathan S. Adelstein noted that “forbearing from...reporting requirements, while at the same time seeking comment on whether those same requirements should be applied to all carriers” was an awkward two-step process, putting the cart before the horse. Commissioner Adelstein expressed his view that the two-year window would give the Commission and outside parties the time needed to “develop meaningful reporting requirements to be filed by a broader set of industry players that will assist policymakers and consumers.”²⁶

Ultimately, the Commission failed to issue an order that would expand service quality data collection to all relevant providers in its *Service Quality Data NPRM*, and the data collection requirements that were in place sunset in September of 2010. In that proceeding, CWA also argued that if the Commission ceased to collect service quality data from the ILECs who were then subject to those requirements, consumers would be left unprotected.²⁷ Numerous consumer groups, state Commissions, and state consumer advocates voiced similar concerns.²⁸ Consumers and policymakers have already suffered harm on at least one occasion where ARMIS service quality data was necessary for a

²⁵ Statement of Commissioner Michael J. Copps, Approving in Part, Concurring in Part, Dissenting in Part, *Service Quality Data Order*.

²⁶ Statement of Commissioner Jonathan S. Adelstein, Approving in Part, Concurring in Part, Dissenting in Part, *Service Quality Data Order*.

²⁷ See Communications Workers of America Comments, In the Matter of Petition of AT&T Inc. for Forbearance Under 47 U.S.C. § 160(c) from Enforcement of Certain of the Commission’s ARMIS Reporting Requirements, WC Docket No. 07-139, Aug. 20, 2007.

²⁸ See Comments submitted by Free Press, Consumers Union, U.S. PIRG; Comments submitted by New Jersey Rate Counsel; Comments submitted by Commonwealth of Massachusetts Department of Telecommunications and Cable; Comments submitted by National Association of State Consumer Utility Advocates; Michigan Public Service Commission; Comments submitted by Texas Public Utility Commission; and Comments submitted by New Jersey Citizen Action all submitted In the Matter of Petition of AT&T Inc. for Forbearance Under 47 U.S.C. § 160(c) from Enforcement of Certain of the Commission’s ARMIS Reporting Requirements, WC Docket No. 07-139, Aug. 20, 2007.

CWA brief to be filed with the State of California, but because of the forbearance granted by the Commission the needed data is unavailable.

But this NPRM offers the Commission another chance to restore consumer protections and equip itself with the trusted data necessary to fulfill its statutory obligations by reconstituting those service quality data collection requirements, and expanding the requirements to all relevant telecommunications and broadband providers.

CWA also notes that the data collected in these ARMIS reports was of particular value to state regulatory agencies, as well as to entities working with those agencies. Numerous consumer organizations, state Commissions, and consumer advocates submitted comments in response to the *Service Quality Data NPRM*, urging the Commission to update its service quality reporting requirements and to apply them to all relevant communications and broadband providers. For example:

- California Public Utilities Commission. “The CPUC agrees with the FCC’s tentative finding that it should continue to collect the service quality and customer satisfaction data in ARMIS Reports 43-05 and 43-06...The CPUC also concurs with the FCC that such information will be more useful to consumers if it were available from all facilities-based providers of broadband and telecommunications services.” Specifically, the CPUC recommended retaining the information collected from ARMIS Report 43-05 Tables I and II (installation and repair intervals for access and retail customers), Tables IV and Table IVA (total switch downtime and occurrences), and Report 43-06 customer satisfaction survey.²⁹
- Free Press. “The ARMIS database provides both federal and state regulators, along with consumers, the ability to monitor the performance of the dominant phone providers...[C]onsumers also need adequate information to make informed choices in the communications marketplace...The Commission must retain a system of reporting that enables it to adequately monitor the communications industry.”³⁰

²⁹ Comments of the California Public Utilities Commission and the People of the State of California, In the Matter of Service Quality, Customer Satisfaction, Infrastructure and Operating Data Gathering, WC Docket No. 09-190, Nov. 14, 2008. p. 3 (“Service Quality Data Proceeding”).

³⁰ Comments of Free Press, Service Quality Data Proceeding, WC Docket No. 09-190, Nov. 16, 2008.

- Massachusetts Attorney General. “The MA AG relies on ARMIS data to inform its efforts to protect consumers in Massachusetts, and therefore, appreciates the FCC’s 24-month bridge between the forbearance order and a potentially new, revised reporting system...[T]he service quality information that carriers presently report in ARMIS 43-05 continues to be relevant...[T]he FCC’s ARMIS database enables users to, among other things, extract data for specific carriers, states, and years...[T]he data relate directly to matters of great importance to consumers: for example, how quickly a carrier repairs an out-of-service dial tone line and how quickly a carrier installs a basic local exchange service line...Access to ARMIS data enables consumer advocates to detect deteriorating service quality...that may merit regulatory attention...Access to data enables consumer advocates to detect whether consumers in rural areas are receiving service quality that is worse than their counterparts in urban areas... Access to a national database enables consumer advocates to compare levels of service quality across states to assess whether different regulatory frameworks lead to different outcomes....One of the key beneficial attributes of ARMIS data is that the data is public...”³¹
- New Jersey Division of Rate Counsel. “Service quality information is an important tool for regulators to detect whether regulatory and market incentives are sufficient to yield adequate service quality of basic service offered by incumbent carriers...[A]dvocates, seeking to protect consumers’ interests, *do* rely on the specific, quantitative information contained in ARMIS...Data requirements should not sunset after 24 months...”
- Texas Office of Public Utility Counsel. “[T]he Commission’s Service Quality Report is utilized by the PUCT [Public Utility Commission of Texas] to compare the level of telecommunications service quality delivered in Texas to that of *other* states...Without periodic data reporting relating to service quality, as currently required by the Commission, states will not be able to review other states’ advances in service quality, along with any related benefits to customers, or monitor and enforce the quality of their own state’s telecommunications service standards...TxOPC supports NASUC in its comments, supporting the Communications Workers of America, providing service quality reporting data required of ILECs should also be required of *all* voice carriers...”³²

The primary, though misguided, rationale for the “relaxation” of service quality reporting requirements rested on the erroneous belief that the “invisible” hand of competition would force companies to improve service quality. But competition cannot

³¹ Reply Comments of the Massachusetts Office of the Attorney General, Service Quality Data Proceeding, Dec. 15, 2008.

³² Comments of the Texas Office of Public Utility Counsel, Service Quality Data Proceeding, Nov. 14, 2008.

protect customers from a lack of adequate information. Free markets are most efficient when consumers have access to complete and transparent information. In competitive markets, data collection gives consumers the information they need in order to make informed choices. To that end, consumers still need objective data to obtain a full picture of the level of service quality actually delivered by different carriers. Service quality data is also useful to the Commission in instances where it must determine if a particular market is, in fact, competitive.

In a competitive market there are natural incentives to direct resources to the most profitable areas. This can result in lower quality service for low-income and rural customers. According to reports from CWA technicians, that is exactly what is happening right now. In the past, we were able to compare this anecdotal evidence with real data from the Commission's service quality reports. Unfortunately, this is no longer possible.

Service Quality and Public Safety. Service quality data collection is also of vital importance to the Commission as it considers public safety issues. The Commission is mandated to ensure that Americans have access to emergency services via 911. The Commission correctly states that service quality data would enable the Commission to identify networks that limit consumers' access to emergency services as a result of excessive downtime, and customer complaint data would likewise serve as an indicator that networks are insufficiently reliable to ensure that consumers can depend on them in an emergency.³³ Service quality data collected by all relevant communications and broadband providers will also be useful to the Commission as it studies how providers switch to new technologies to implement enhanced 911 services.

³³ Data Improvement NPRM, para. 27.

Telecommunications act as the lifeline between the individual and the outside world. If companies opt to provide inadequate service quality, public safety goals such as access to enhanced emergency service could be jeopardized. Public safety agencies rely upon the public switched network and increasingly on broadband networks to provide public safety services. Conversely, consumers rely on these networks to reach emergency services. The public collection of service quality information helps to ensure the timely provision and repair of these networks, and the high level of service reliability by all providers that is needed to promote public safety.

Clarity in Reporting. Finally, CWA found the Commission's web-based reporting of service quality data to be a model of simplicity and clarity, and urges the Commission to maintain and expand upon such user-friendly web-based means to query the data that it collects.

IV. Conclusion

CWA commends the Commission for undertaking this review of its data collection policies. The Commission, service providers, consumers and interested stakeholders will all benefit from a public, uniform set of data, collected over time. By expanding its data collection requirements to include broadband infrastructure, actual broadband speeds, and service quality data reported by all telecommunications and broadband providers, the Commission will have the tools necessary effectively to protect consumers, promote competition and advance the public interest.

Respectfully Submitted,

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